



[4830-01-p]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-107548-11]

RIN 1545-BK10

Modifications to Definition of United States Property

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this **Federal Register**, the IRS and the Treasury Department are issuing temporary regulations relating to the treatment of upfront payments made pursuant to certain notional principal contracts. The temporary regulations provide that certain obligations of United States persons arising from upfront payments made by controlled foreign corporations pursuant to contracts that are cleared by a derivatives clearing organization or clearing agency do not constitute United States property. The text of the temporary regulations also serves as the text of these proposed regulations.

DATES: Comments and requests for a public hearing must be received by **[INSERT DATE 90 DAYS AFTER PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]**.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-107548-11), room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours

of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-107548-11), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC, or sent electronically, via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-107548-11).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Kristine A. Crabtree, (202) 622-3840; concerning submissions of comments or a request for a public hearing, Oluwafunmilayo Taylor, (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

The temporary regulations published in the Rules and Regulations section of this issue of the **Federal Register** establish an exception to the definition of United States property (within the meaning of section 956(c)) for obligations of United States persons arising from certain upfront payments made with respect to certain contracts that are properly classified as notional principal contracts for U.S. Federal income tax purposes and that are cleared by a derivatives clearing organization or clearing agency. The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations and these proposed regulations.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because

these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small entities.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under “Addresses.” In addition to the specific requests for comments made elsewhere in this preamble or the preamble to the temporary regulations, the IRS and the Treasury Department request comments on all aspects of the proposed rules. All comments will be available at www.regulations.gov or upon request. A public hearing will be scheduled if requested in writing by any person who timely submitted written comments. If a public hearing is scheduled, notice of the date, time, and place of the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Kristine A. Crabtree of the Office of Associate Chief Counsel (International). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendment to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1--INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.956-2(b)(1)(xi) also issued under 26 U.S.C. 956(e).* * *

Par. 2. Section 1.956-2 is amended by adding new paragraphs (b)(1)(xi) and (f) to read as follows:

§1.956-2 Definition of United States property.

* * * * *

(b)(1)(xi) [The text of this proposed amendment is the same as the text of §1.956-2T(b)(1)(xi) published elsewhere in this issue of the **Federal Register**].

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(f) [The text of this proposed amendment is the same as the text of §1.956-2T(f) published elsewhere in this issue of the **Federal Register**].

Steven T. Miller

Deputy Commissioner for Services and Enforcement.